



UNITED STATES DEPARTMENT OF COMMERCE  
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08/337-333	11/08/94	MONTEITH FIRST NAMED INVENTOR	J	ATTORNEY DOCKET NO. 6342
SERIAL NUMBER	FILING DATE			

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D3M1/0627

UFTON, C

EXAMINER

1308	PAPER NUMBER
ART UNIT	

06/27/95

DATE MAILED:

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☒ Responsive to communication filed on 2/1/95 ☐ This action is made final.

A shortened statutory period for response to this action is set to expire \_\_\_\_\_ month(s), \_\_\_\_\_ days from the date of this letter.  
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- |   |  |
|---|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input type="checkbox"/> Notice re Patent Drawing, PTO-948.                   |
| 3. <input checked="" type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449.      | 4. <input type="checkbox"/> Notice of Informal Patent Application, Form PTO-152. |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474.     | 6. <input type="checkbox"/> _____  |

Part II SUMMARY OF ACTION

1. ☒ Claims 1-5 are pending in the application.

Of the above, claims \_\_\_\_\_ are withdrawn from consideration.

2. ☐ Claims \_\_\_\_\_ have been cancelled.

3. ☐ Claims \_\_\_\_\_ are allowed.

4. ☒ Claims 1-5 are rejected.

5. ☐ Claims \_\_\_\_\_ are objected to.

6. ☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

7. ☐ This application has been filed with Informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8. ☐ Formal drawings are required in response to this Office action.

9. ☒ The corrected or substitute drawings have been received on 2/1/95. Under 37 C.F.R. 1.84 these drawings are ☒ acceptable. ☐ not acceptable (see explanation or Notice re Patent Drawing, PTO-948).

10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on \_\_\_\_\_ has (have) been ☐ approved by the examiner. ☐ disapproved by the examiner (see explanation).

11. ☐ The proposed drawing correction, filed on \_\_\_\_\_, has been ☐ approved. ☐ disapproved (see explanation).

12. ☐ Acknowledgment is made of the claim for priority under U.S.C. 119. The certified copy has ☐ been received ☐ not been received  
☐ been filed in parent application, serial no. \_\_\_\_\_; filed on \_\_\_\_\_

13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14. ☐ Other

EXAMINER'S ACTION

Art Unit 1308

15. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

16. Claim 1 is rejected under 35 U.S.C. § 102(b) as anticipated by or, in the alternative, under 35 U.S.C. § 103 as obvious over Webster.

Webster discloses a container having upper and lower compartments separated from each other by a partition (24), with an inlet (23) separated from an outlet (26) by a raised wall (31) extending from the partition, with openings (25) in the partition communicating both sides of the upper compartment with the lower

compartment, as claimed. While the wall of Webster rises to the cover and therefore does not appear to permit overflow, it is submitted that overflow is obviously a functional recitation, unless structure or means to permit overflow is recited.

17. Claim 2 is rejected under 35 U.S.C. § 103 as being unpatentable over Webster.

Claim 2 differs from Webster in recitation of a covered passageway between the compartments sized for a worker. It is submitted that it would have been obvious for one of ordinary skill in the art to provide such a passage, in view of the removable cover of Webster, and that the size of such a passage obviously depends upon the size of the device, and therefore fails to patentably distinguish over the prior art.

18. Claim 3 is rejected under 35 U.S.C. § 103 as being unpatentable over Webster in view of Miller.

Claim 3 differs from Webster in recitation of the partition wall being substantially horizontal and the raised portion having a sloping side. It is submitted that the partition of Webster is at a shallow angle and therefore substantially horizontal, and that the exact angle would have been an obvious matter of design, depending on expected capacity and characteristics. Sloping weirs are well known in the art of separation, as exemplified by Miller. It would therefore have been obvious for one of ordinary skill in the art to slope the wall of Webster, to improve separation.

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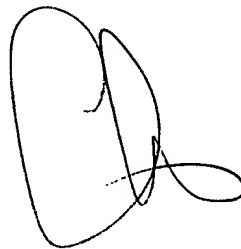
19. Claims 4 and 5 are rejected under 35 U.S.C. § 103 as being unpatentable over the references as applied to claims 1-3 above, and further in view of Primich or Monteith.

Claim 4 differs from claim 1 in recitation of an elongate pipe extending downwardly from the openings into the treatment (lower) compartment. Such extensions into separation tanks are well known, as exemplified by Primich and Monteith, and would have been an obvious addition to the device of Webster for one skilled in the art, to improve separation and trap floating contaminants.

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Other references of interest include Loeb, Malm, Lowrie, Cousino, Strohecker and Smith.

21. Any inquiry concerning this communication should be directed to Christopher Upton at telephone number (703) 308-3741.

A handwritten signature in black ink, consisting of a large, stylized 'C' followed by a loop and a horizontal stroke.

CHRISTOPHER UPTON  
PRIMARY EXAMINER  
GROUP 1300